

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ESTATE OF MAHER IBRAHIM,
SABRINA IBRAHIM, SONYA AUDI,
CHRISTINA SLATER and MARY IBRAHIM

Plaintiffs,

Case No. 22-cv-1116-pp

v.

THE BAY AT BURLINGTON HEALTH
AND REHABILITATION LLC,
CHAMPION CARE LLC
and JB KENOSHA HEALTHCARE LLC,

Defendants,

and

CENTER FOR MEDICARE & MEDICAID SERVICES,

Subrogee Defendant.

**ORDER APPROVING STIPULATION (DKT. NO. 10), GRANTING JOINT
MOTION AGREEING TO VOLUNTARILY DISMISS MEDICARE AND REMAND
CASE TO CIVIL COURT (DKT. NO. 11), DENYING AS MOOT DEFENDANT
CENTER FOR MEDICARE & MEDICAID SERVICES' MOTION TO DISMISS
(DKT. NO. 3) AND REMANDING CASE TO RACINE COUNTY CIRCUIT
COURT**

On March 24, 2020, the plaintiffs filed a wrongful death complaint against the defendants in Racine County Circuit Court. Dkt. No. 1 at 1. Over two years later, the plaintiffs filed a motion to join additional party defendants and file a supplemental complaint, which the state court granted. *Id.* at 2. On August 24, 2022, the plaintiffs served the United States Attorney for the Eastern District of Wisconsin with a supplemental complaint, naming the

Center for Medicare & Medicaid Services. Id. Because the U.S. Department of Health and Human Services oversees the Medicare program, the United States Attorney filed a timely notice of removal. Id. (citing 28 U.S.C. §1442(a)(1)). On October 7, 2022, the United States Attorney moved to dismiss defendant Center for Medicare & Medicaid Services for lack of subject-matter jurisdiction based on the doctrine of sovereign immunity. Dkt. No. 3.

The plaintiffs and the Center for Medicare & Medicaid Services filed a stipulation, dkt. no. 10, and joint motion to dismiss the Center for Medicare & Medicaid Services based on their settlement, dkt. no. 11. They ask the court to remand the case to Racine County Circuit Court for the filing of the signed settlement agreement. Id. at 2. Although the court would typically wait for the other defendants to respond to the joint motion, no other defendants have appeared in the case.¹ The court finds no basis for the exercise of subject matter jurisdiction.

The court **APPROVES** the parties' stipulation. Dkt. No. 10.

¹ Although the Center for Medicare & Medicaid represents that the state court case was filed over two and a half years ago, the supplemental complaint attached to the notice of removal does not include the wrongful death allegations from the original complaint. Dkt. No. 1-2. The publicly available docket indicates that the case was removed on September 23, 2022, but it remains open in Racine County Circuit Court with a jury trial scheduled for September 22, 2023. Maher Ibrahim et al. v. The Bay at Burlington Health and Rehabilitation, LLC, et al., Racine County Court Case No. 2020cv000970 (available at <https://www.wicourts.gov>). Attorneys have appeared for the other defendants in the state court case.

The court **GRANTS** the joint motion to voluntarily dismiss the Center for Medicare & Medicaid Services and remand the case to Racine County Circuit Court. Dkt. No. 11.

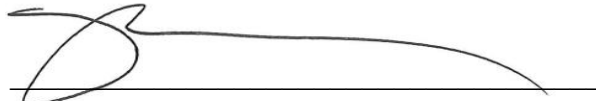
The court **ORDERS** that the Center for Medicare & Medicaid Services is **DISMISSED** as a defendant.

The court **REMANDS** the case to Racine County Circuit Court for further disposition.

The court **DENIES AS MOOT** the Center for Medicare & Medicaid Services' motion to dismiss. Dkt. No. 3.

Dated in Milwaukee, Wisconsin this 27th day of December, 2022.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'P. Pepper', is written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge